

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellants: Frank P. Baldiga et al.

Group Art Unit: 2452

Application No.: 10/634,261

Examiner: Whipple, Brian P.

Filed: August 5, 2003

Confirmation No.: 7054

For: METHOD, SYSTEM, AND PROGRAM PRODUCT FOR
ASSIGNING DEVICE IDENTIFIERS

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APPEAL BRIEF UNDER 37 C.F.R. § 41.37(a)

This is an appeal to the Board of Patent Appeals and Interferences from the decision of the Office Action dated August 16, 2010, which finally rejected claims 1-11 and 13-21 in the above-identified application. The Office date of receipt of Appellants' Notice of Appeal was November 3, 2010. This Appeal Brief is hereby submitted pursuant to 37 C.F.R. § 41.37(a). The previously paid Appeal Brief Fee should be applied to this new Appeal.

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I. REAL PARTY IN INTEREST

The real party in interest is the assignee of the full interest in the invention, International Business Machines Corporation, of Armonk, New York.

II. RELATED APPEALS AND INTERFERENCES

To the best of Appellants' knowledge, there are no appeals or interferences related to the present appeal that will directly affect, be directly affected by, or have a bearing on the Board's decision in the instant appeal.

III. STATUS OF CLAIMS

Claim 12 is canceled.

No claims are withdrawn.

No claims are objected to.

Claims 1-11 and 13-21 stand rejected as follows:

Claims 18-20 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-3, 5, 6, 9-11, and 14-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nazari (U.S. Pat. No. 6,842,789, hereinafter Nazari) in view of Okano (U.S. Pat. Pub. No. 2002/0062485, hereinafter Okano).

Claims 4, 7, and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nazari and Okano, and further in view of Matsuda (U.S. Pat. Pub. No. 2002/0133573, hereinafter Matsuda).

Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Nazari and Okano, and further in view of Meier (U.S. Pat. No. 7,096,273, hereinafter Meier).

Claims 1-11 and 13-21 are the subject of this appeal. A copy of claims 1-11 and 13-21 is set forth in the Claims Appendix.

IV. STATUS OF AMENDMENTS

There were no proposed amendments submitted subsequent to the Final Office Action mailed August 16, 2010.

V. SUMMARY OF CLAIMED SUBJECT MATTER

This section of this Appeal Brief is set forth to comply with the requirements of 37 C.F.R. § 41.37(c)(1)(v) and is not intended to limit the scope of the claims in any way. Examples of implementations of the limitations of independent claims 1, 10, 15, and 18 are described below.

The language of claim 1 relates to a method for assigning a device identifier to a device. Paragraphs 29-33; Fig. 2. The method includes receiving a request at a server from the device for the device identifier. Paragraph 29; Fig. 1, Request 44; and Fig. 2, operation A2. The request is accompanied by correlation data with unique identification information associated with the device. Paragraph 30. The method also includes obtaining the device identifier, which is unique from device identifiers of other devices identified by the server and distinct from a network address of the device, and is obtained at the server and associated by the server with the correlation data from the device in response to the request from the device. Paragraphs 39-42; Fig. 1, Identifier 42. The method also includes marking a status of the device identifier as pending. Paragraph 31; Fig. 1, Assignment System 40. The method also includes sending the device identifier to the device. Paragraph 29; Fig. 2, Operation A3. The device identifier is accompanied by the correlation data associated with the device. Paragraph 30. The method also includes marking the status of the device identifier as in use after receiving an acknowledgment from the device. Paragraph 31; Fig. 1, Assignment System 40; Fig. 2, Operation A6. The acknowledgment is accompanied by the correlation data associated with the device. Paragraph 30. The method also includes sending a confirmation to the device after the acknowledgment is received. Paragraph 29; Fig. 1, Assignment System 40; Fig. 2, Operation A7. The confirmation is accompanied by the correlation data associated with the device. Paragraph 30.

The language of claim 10 relates to a method of obtaining a device identifier for a device. Paragraphs 29-33; Fig. 2. The method includes sending a request for the device identifier to a server. Paragraph 29; Fig. 1, Request 44; and Fig. 2, Operation A2. The device identifier is unique from device identifiers of other devices identified by the server and distinct from a network address of the device. Paragraph 39. The request is accompanied by correlation data with unique identification information associated with the device. Paragraph 30. The method also includes sending an acknowledgment to the server after receiving the device identifier from the server. Paragraph 29; Fig. 2, Operation A5. The device identifier is accompanied by the correlation data associated with the device. Paragraph 30. The method also includes using the device identifier after receiving a confirmation from the server. Paragraph 29; Fig. 2, Operation A8. The confirmation is accompanied by the correlation data associated with the device.

Paragraph 30.

The language of claim 15 relates to a system for assigning a device identifier to a device. Paragraphs 29-33; Fig. 1, System 10. The system includes an assignment system for managing an assignment of the device identifier at a server. Paragraph 29; Fig. 1, Assignment 40. At least a portion of the assignment system is implemented by instructions stored on a data storage device. Paragraph 28; Fig. 1, Storage 24. The assignment system is configured to obtain the device identifier in response to a request. Paragraphs 29-33; Fig. 2. The device identifier is unique from device identifiers of other devices identified by the server and distinct from a network address of the device. Paragraph 39. The assignment system is also configured to mark a status of the device identifier as pending. Paragraph 31; Fig. 1, Assignment 40. The assignment system is also configured to mark the status of the device identifier as in use in response to an acknowledgment of the device identifier from the device. Paragraph 31; Fig. 1, Assignment 40. The assignment system also includes a server communication system. Paragraph 29; Fig. 1, Server Communication System 36. The server communication system is configured to receive the request from the device. Paragraph 29; Fig. 1, Server Communication System 36; and Fig. 2, Operation A2. The request is accompanied by correlation data with unique identification information associated with the device. Paragraph 30. The server communication system is also configured to send the device

identifier to the device. Paragraph 29; Fig. 1, Server Communication System 36; and Fig. 2, Operation A2. The device identifier is accompanied by the correlation data associated with the device. Paragraph 30. The server communication system is also configured to send a confirmation to the device after the acknowledgment is received. Paragraph 29; Fig. 2, Operation A7. The acknowledgment is accompanied by the correlation data associated with the device. Paragraph 30. The server communication system is also configured to receive the acknowledgment from the device. Paragraph 29; Fig. 2, Operation A6. The confirmation is accompanied by the correlation data associated with the device. Paragraph 30.

The language of claim 18 relates to a program product stored on a recordable data storage medium for assigning device identifiers. Paragraphs 29-33 and 44. When executed, the program product includes program code for receiving a request for the device identifier at a server. Paragraph 29; Fig. 2, Operation A2. The request is accompanied by correlation data with unique identification information associated with a device. Paragraph 30. The program product also includes program code for obtaining the device identifier. Paragraph 39; Fig. 1, Identifier 42. The device identifier is unique from device identifiers of other devices identified by the server and distinct from a network address of the device. Paragraph 39-42; Fig. 1, Identifier 42. The program product also includes program code for marking a status of the device identifier as pending. Paragraph 31; Fig. 1, Assignment 40. The program product also includes program code for sending the device identifier to the device. Paragraph 29; Fig. 2, Operation A3. The device identifier is accompanied by the correlation data associated with the device. Paragraph 30. The program product also includes program code for marking the status of the device identifier as in use after receiving an acknowledgment from the device. Paragraph 31; Fig. 1. The acknowledgment is accompanied by the correlation data associated with the device. Paragraph 30. The program product also includes program code for sending a confirmation to the device after the acknowledgment is received. Paragraph 29; Fig. 2, Operation A7. The confirmation is accompanied by the correlation data associated with the device. Paragraph 30.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

- A. Whether claims 18-20 recite statutory subject matter under 35 U.S.C. § 101.
- B. Whether claims 1-3, 5, 6, 9-11, and 14-21 are patentable over the combination of Nazari and Okano under 35 U.S.C. § 103(a).
- C. Whether claims 4, 7, and 13 are patentable over the combination of Nazari, Okano, and Matsuda under 35 U.S.C. § 103(a).
- D. Whether claim 8 is patentable over the combination of Nazari, Okano, and Meier under 35 U.S.C. § 103(a).

VII. ARGUMENT

For the purposes of this appeal, claims 18-20 are argued together as a group for purposes of the question of statutory subject matter under 35 U.S.C. § 101. Claims 1-3, 5, 6, 9-11, and 14-21 are argued together as a group for purposes of the question of patentability over the combination of Nazari and Okano under 35 U.S.C. § 103(a). Claims 4, 7, and 13 are argued together as a group for purposes of the question of patentability over the combination of Nazari, Okano, and Matsuda under 35 U.S.C. § 103(a). Claim 8 is argued separately for purposes of the question of patentability over the combination of Nazari, Okano and Meier under 35 U.S.C. § 103(a).

A. Claims 18-20 recite statutory subject matter under 35 U.S.C. § 101

Claims 18-20 were rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. In particular, the Examiner states that the recitation of “a storage medium alone may be viewed as a transitory medium.” The Examiner also advises Appellants to refer to “recent Office guidelines.”

Appellants submit that claims 18-20 recite a recordable data storage medium, which is statutory subject matter because it is a physical structural device. Moreover, there are several other reasons why the stated rejection is improper and should be withdrawn. First, the PTO memorandum dated 1/26/10 and entitled “Subject Matter Eligibility of Computer Readable Media” (hereinafter, the “PTO Memorandum”) does not provide grounds for the stated rejection. Second, the assertion that the claimed

invention as a whole might include transitory media is insufficient to establish a *prima facie* case. Third, the interpretation of a “recordable data storage medium” as propagation media *per se* is improper.

1. The PTO Memorandum does not support the stated rejection of a “recordable data storage medium.”

The reasoning of the Examiner appears to rely on the content of the PTO Memorandum as the basis for the rejection. Appellants are familiar with the referenced PTO memorandum, and it should be noted that the referenced PTO memorandum does not address the use of storage media. The PTO memorandum specifically addresses the use of “computer readable media” in the claims.

Regardless of the characterization of “computer readable media” in the PTO Memorandum, the issues discussed in the PTO Memorandum do not apply to the language of the indicated claims of the present application because the claims do not recite “computer readable media.” Rather, the claims recite a “recordable data storage medium” which is not necessarily of the same scope as “computer readable media” at least because the recited language specifically refers to a storage medium. Thus, the reference to the PTO memorandum does not provide a basis for the stated rejection because the claims specifically recite a storage medium.

2. The assertion that the claimed invention as a whole might include transitory media is insufficient to establish a *prima facie* case.

Moreover, the assertion that “recordable data storage medium” might be interpreted to include transitory media is not sufficient to establish a proper rejection under 35 U.S.C. 101. In order to establish a *prima facie* case under 35 U.S.C. 101, the Examiner must weigh the totality of the evidence (e.g., the specification, claims, relevant prior art) before reaching “a conclusion whether it is more likely than not that the claimed invention as a whole falls outside of one of the enumerated statutory classes.” MPEP 2106(IV)(D) (emphasis added).

Even if the claim were interpreted to include transitory media, there is no assertion or evidence that the claimed invention as a whole might be exclusively

interpreted as transitory media. The mere inclusion of transitory media along with otherwise patentable subject matter within the claimed invention as a whole does not render the claimed invention as a whole unpatentable. Also, there is no prohibition against reciting transitory media in combination with otherwise patentable subject matter within the claimed invention as a whole.

In other words, the requirements of 35 U.S.C. 101 do not prevent the claimed invention as a whole from including a combination of patentable subject matter along with transitory media or other subject matter that, by itself, might not be patentable. Therefore, the mere assertion that the recited “recordable data storage medium” might be interpreted to include transitory media is not sufficient to establish a *prima facie* case under 35 U.S.C. 101.

3. The interpretation of a “recordable data storage medium” as propagation media *per se* is improper.

Furthermore, although the Examiner did not explicitly assert that the “recordable data storage medium” might be interpreted as propagation media *per se*, such an assertion would nevertheless be improper because such an interpretation is too broad and is not reasonable. While details of the specification are not read into the limitations of the claim, the broadest reasonable construction must be consistent with the language of the claim and the specification. *In Re Suitco Surface, Inc.* (Fed. Cir. 2010). Any such construction must be consistent with the specification, and claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art. *Id.* (citing *In re Bond*, 910 F.2d 831, 833 (Fed. Cir. 1990)). In *Suitco*, the Federal Circuit held that the PTO’s claim construction was unreasonable because the asserted claim construction was not consistent with the language of the claim and the specification. Therefore, a claim construction is not reasonable and fails if the construction is not consistent with the context of the specification.

In the present application, the claims and the specification are clear and specific in regard to the recitation of storage media. In fact, the specification provides one example of media which comprises transmission media, while the specification separately refers to another example of media which comprises data storage (i.e., a recordable data storage

medium). The possibility that there might be different types of media (e.g., transmission media or data storage media) does not justify mischaracterizing all types of media as a single exclusive type of media.

Therefore, the potential claim construction of a “recordable data storage medium” as propagation media *per se* is unreasonable and, hence, improper because the claim construction is inconsistent with the context of the specification of the present application. Accordingly, Appellants respectfully request that the rejections of claims 18-20 under 35 U.S.C. 101 be withdrawn.

B. Claims 1-3, 5, 6, 9-11, and 14-21 are patentable over Nazari and Okano because the cited references do not teach all of the limitations of the claims.

Claim 1 is patentable over the combination of Nazari and Okano because the combination of cited references does not teach all of the limitations of the claim. Claim 1 recites:

A method for assigning a device identifier to a device, the method comprising:

receiving a request at a server from the device for the device identifier, wherein the request is accompanied by correlation data with unique identification information associated with the device;

obtaining the device identifier, the device identifier being unique from device identifiers of other devices identified by the server and distinct from a network address of the device, wherein the device identifier is obtained at the server and associated by the server with the correlation data from the device in response to the request from the device;

marking a status of the device identifier as pending;

sending the device identifier to the device, wherein the device identifier is accompanied by the correlation data associated with the device;

marking the status of the device identifier as in use after receiving an acknowledgment from the device, wherein the acknowledgment is accompanied by the correlation data associated with the device; and

sending a confirmation to the device after the acknowledgment is received, wherein the confirmation is accompanied by the correlation data associated with the device.

(Emphasis added.)

The stated rejections of the Examiner with respect to this assertion are improper because the reasoning of the Examiner fails to establish a *prima facie* case of obviousness. Also, the combination of cited references does not teach all of the limitations of the claims.

As a preliminary matter, the reasoning presented in support of the rejections states:

As to claim 1...the fact that the IP address 0.0.0.0 is common to a plurality of devices provides evidence that further information would be needed to identify an individual device among those lined to a common IP address. Furthermore, Okano explicitly discloses the requesting device being identified by a MAC address, which may be interpreted as correlation data included with the DHCP request ([0015], ln. 4-7, “A packet format of the DHCP message is composed of a MAC header”; [0186]; [0195] – [0196]) Office Action, 8/16/10, page 3 (emphasis added).

Thus, the reasoning of the Examiner relies on Okano as purportedly teaching using correlation data with unique identification information associated with the device, as recited in claim 1. Specifically, the Examiner attempts to infer a MAC address being sent to identify a requesting device. However, this inference is not rational because the asserted conclusion that the MAC address must accompany the request is inconsistent with the explicit disclosure provided in Okano, which describes using the common IP address 0.0.0.0 to identify the requesting device. By using the common IP address 0.0.0.0, there is no need to use additional device addresses. Therefore, the assertions of the Examiner are not supported by the actual teachings of Okano. Appellants thus reassert that the Examiner’s assertion is not supported by articulated reasoning with a rational underpinning and, hence, is insufficient to support a *prima facie* case of obviousness.

Additionally, Appellants reassert that the above-recited reasoning of the Examiner is inconsistent with the explicit statements presented in the Examiner’s Answer, which stated that Okano [and Aoyama] “are silent on...the request includes correlation data for the device.” Examiner’s Answer, 11/20/09, page 11, lines 3-6 (emphasis added).

Further, there are at least three fundamental issues with the above reasoning presented by the Examiner. First, the Examiner provides evidence that the disclosure of

Okano is not enabled and, hence, is not proper prior art. Second, there is no basis for suggesting that the conventional use of a MAC address might be combined with the embodiment which uses IP address 0.0.0.0. Third, there is no basis for suggesting that the MAC address for the cable modem might be used in combination with the IP address 0.0.0.0 of the subscriber terminal.

1. The Examiner provides evidence that the disclosure of Okano is not enabled and, hence, is not proper prior art.

The acknowledgement that “further information would be needed to identify an individual device” as indicated by the Examiner is evidence that the disclosure of Okano is not enabled and, hence, is not proper prior art. Office Action 08/16/10, page 3.

Additionally, the repeated assertion that a MAC address is essential to the functionality of the requesting device as indicated by the Examiner in a previous Office Action is further evidence that brings into question the operability and enablement of the disclosure of Okano. Office Action 04/28/10, pages 6 and 7. If, as asserted by the Examiner, further information, such as a MAC address, were needed to identify an individual device, then the failure of Okano to teach providing further information would constitute an omission of critical matter from the disclosure and the claims of the cited reference. See MPEP 2164.08(c). This failure to teach subject matter which is characterized by the Examiner as necessary for the operation of the device is, under the reasoning provided by the Examiner, evidence of a lack of enablement of Okano. Hence, Okano does not qualify as prior art for the critical aspects that it does not actually teach, including the failure to teach correlation data with unique identification information associated with the device, as recited in claim 1.

2. There is no basis for the Examiner’s suggestion that the conventional use of a MAC address might be combined with the embodiment which uses IP address 0.0.0.0.

For reference, the Examiner attempts to cite Okano, paragraph 15 as purportedly representing the correlation data in the request, as recited in claim 1. Specifically, the Examiner states that paragraph 15 explicitly discloses a requesting device being

identified by a MAC address. However, the Examiner mistakenly combines what Okano defines as prior art with the non-prior art invention of Okano in an attempt to show some disclosure of a MAC address being sent from a requesting device. However, Okano merely describes a requesting device sending a common IP address 0.0.0.0 to identify the requesting device. Okano, pages 4 and 5, paragraph 84. In fact, by using the common IP address 0.0.0.0, there is no need to use additional device addresses. Additionally, there is no other discussion in Okano about sending a request containing any information to identify the requesting device. Regarding the Examiner's citation of Okano paragraph 15, this reference to a MAC address is merely part of Okano's Background section that discusses a conventional embodiment that is not part of the Okano invention. At best, the description of paragraph 15 teaches away from the conventional use of a MAC address because it is presented as part of a problem that the Okano invention attempts to solve with a new solution. Thus, there is no basis for the Examiner's suggestion that the conventional use of a MAC address might be combined with the Okano invention's "0.0.0.0" IP address. Moreover, there is no other description in Okano of correlation data with unique identification information associated with the device. Therefore, Okano paragraph 15 fails to teach a request which is accompanied by correlation data with unique identification information associated with the device, as recited in the claim.

3. There is no basis for the Examiner's suggestion that the MAC address for the cable modem might be used in combination with the IP address 0.0.0.0 of the subscriber terminal.

For reference, the Examiner additionally attempts to cite Okano, paragraphs 186, 195, and 196 to purportedly represent the correlation data in the request, as recited in claim 1. Specifically, the Examiner states that these paragraphs explicitly disclose the requesting device being identified by a MAC address. However, these paragraphs do not teach the identification of a subscriber terminal via MAC address. Rather, these paragraphs describe identification of a cable modem via MAC address. For example, paragraph 186 describes "the MAC address of the cable modem." Additionally, paragraphs 195 and 196 describe "the cable modem with another MAC address is judged" and "the cable modem with the same MAC address." Although the cable

modem is an intermediary in the Okano process to acquire a subscriber terminal IP address, an identification of the cable modem is not sufficient to describe any identification of the subscriber terminal. Moreover, the cable modem of Okano does not teach the device of claim 1 because the cable modem is not requesting a device identifier, as recited in claim 1. Thus, there is no basis for the suggestion by the Examiner that the cable modem might be used in combination with the IP address 0.0.0.0 of the subscriber terminal. Moreover, there is no other description of identification of the Okano subscriber terminal via MAC address or any other type of data with unique identification information associated with the device. Therefore, Okano fails to teach a request which is accompanied by correlation data with unique identification information associated with the device, as recited in the claim.

For reference, the Examiner does not assert that any other reference cited in the Office Action teaches the missing limitations of Okano. In light of these outstanding issues, Appellants submit that the combination of Nazari and Okano does not teach all of the limitations of the claim because the combination of Nazari and Okano does not describe using correlation data with unique identification information associated with the device. Moreover, Appellants reassert that the stated rejections are improper because the reasoning by the Examiner fails to establish a *prima facie* case of obviousness, as asserted above.

Given that claims 3, 5, 6, and 9 depend from and incorporate all of the limitations of independent claim 1, which is patentable over the cited references, Appellants respectfully submit that each of dependent claims 3, 5, 6, and 9 are also patentable over the cited references based on an allowable base claim. Additionally, each of claims 3, 5, 6, and 9 may be allowable for further reasons. Accordingly, Appellants request that the rejections of claims 1, 3, 5, 6, and 9 under 35 U.S.C. § 103(a) be withdrawn. Additionally, each of these dependent claims may be allowable for further reasons.

Appellants respectfully assert independent claims 10, 15, and 18 are also patentable over the combination of Nazari and Okano at least for similar reasons to those stated above in regard to the rejection of independent claim 1. In particular, the rejections of claims 10, 15, and 18 merely rely on the same reasoning that the Examiner

provided for the rejection of claim 1. Here, although the language of each of claims 10, 15, and 18 differs from the language of claim 1, and the scope of each of claims 10, 15, and 18 should be interpreted independently of claim 1, Appellants respectfully assert that the remarks provided above in regard to the rejection of claim 1 also apply to the rejections of each of claims 10, 15, and 18. Accordingly, Appellants respectfully assert independent claims 10, 15, and 18 are patentable over the combination of Nazari and Okano because the combination of Nazari and Okano does not teach the indicated limitations.

Given that claims 11 and 14-21 depend from and incorporate all of the limitations of the corresponding independent claims 10, 15, and 18, which are patentable over the cited references, Appellants respectfully submit that dependent claims 11 and 14-21 are also patentable over the cited references based on allowable base claims. Additionally, each of claims 11 and 14-21 may be allowable for further reasons. Accordingly, Appellants request that the rejections of claims 11 and 14-21 under 35 U.S.C. § 103(a) be withdrawn. Additionally, each of these dependent claims may be allowable for further reasons.

C. Claims 4, 7, and 13 are patentable over Nazari, Okano, and Matsuda because cited references do not teach all of the limitations of the claims.

Claims 4, 7, and 13 depend from and incorporate all of the limitations of the corresponding independent claims 1 and 10, which are patentable over the cited references. Additionally, the Examiner does not assert that Matsuda teaches the missing limitations of Okano. Accordingly, Appellants respectfully submit that each of these dependent claims is also patentable over the cited references based on allowable base claims. Consequently, Appellants request that the rejections of claims 4, 7, and 13 under 35 U.S.C. § 103(a) be withdrawn. Additionally, each of these dependent claims may be allowable for further reasons.

D. Claim 8 is patentable over Nazari, Okano, and Meier because cited references do not teach all of the limitations of the claim.

Claim 8 depends from and incorporates all of the limitations of the corresponding independent claim 1, which is patentable over the cited references. Additionally, the Examiner does not assert that Meier teaches the missing limitations of Okano. Accordingly, Appellants respectfully submit that this dependent claim is also patentable over the cited references based on an allowable base claim. Consequently, Appellants request that the rejection of claim 8 under 35 U.S.C. § 103(a) be withdrawn. Additionally, this dependent claim may be allowable for further reasons.

VIII. CONCLUSION

For the reasons stated above, claims 1-11 and 13-21 are patentable over the cited references. Thus, the rejections of claims 1-11 and 13-12 should be withdrawn. Appellants respectfully request that the Board reverse the rejections of claims 1-11 and 13-21 under 35 U.S.C. §103(a).

This response is accompanied by the appropriate fee to obtain a 2-month extension of the period for filing an Appeal Brief, thereby moving the deadline for response from January 3, 2011, to March 3, 2011.

The previously paid Appeal Brief fee should be applied to this new Appeal. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account **09-0461** pursuant to 37 C.F.R. 1.25. Additionally, please charge any fees to Deposit Account **09-0461** under 37 C.F.R. 1.16, 1.17, 1.19, 1.20 and 1.21.

Respectfully submitted,

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Date: February 4, 2011

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IX. CLAIMS APPENDIX

1. (previously presented) A method for assigning a device identifier to a device, the method comprising:

receiving a request at a server from the device for the device identifier, wherein the request is accompanied by correlation data with unique identification information associated with the device;

obtaining the device identifier, the device identifier being unique from device identifiers of other devices identified by the server and distinct from a network address of the device, wherein the device identifier is obtained at the server and associated by the server with the correlation data from the device in response to the request from the device;

marking a status of the device identifier as pending;

sending the device identifier to the device, wherein the device identifier is accompanied by the correlation data associated with the device;

marking the status of the device identifier as in use after receiving an acknowledgment from the device, wherein the acknowledgment is accompanied by the correlation data associated with the device; and

sending a confirmation to the device after the acknowledgment is received, wherein the confirmation is accompanied by the correlation data associated with the device.

2. (original) The method of claim 1, further comprising:

receiving a second acknowledgment from the device; and
sending a second confirmation to the device.

3. (previously presented) The method of claim 1, further comprising managing a set of device entries at the server, wherein each of the device entries comprises a unique device identifier, a status indicator to indicate a status of the corresponding device identifier, and correlation data associated with the corresponding device identifier.

4. (previously presented) The method of claim 3, wherein the correlation data comprises:
 - device data to particularly identify the corresponding device; and
 - user data to identify a particular user of the corresponding device.
5. (previously presented) The method of claim 3, wherein each of the device entries further includes a timestamp, the method further comprising setting the timestamp when the status is marked as pending.
6. (previously presented) The method of claim 1, wherein obtaining the device identifier comprises:
 - generating the device identifier before the request from the device is received at the server;
 - marking the status of the device identifier as unused; and
 - locating the device identifier having the status marked as unused after the request is received.
7. (previously presented) The method of claim 1, wherein obtaining the device identifier comprises generating the device identifier after receiving the request.
8. (original) The method of claim 1, further comprising marking the status of the device identifier as unused if the acknowledgment is not received after a time out period.
9. (original) The method of claim 1, further comprising:
 - reusing the device identifier for another request received from another device after a time out period has elapsed; and
 - sending a rejection to the device if the acknowledgment is received after the time out period has elapsed.

10. (previously presented) A method of obtaining a device identifier for a device, the method comprising:

sending a request for the device identifier to a server, the device identifier being unique from device identifiers of other devices identified by the server and distinct from a network address of the device, wherein the request is accompanied by correlation data with unique identification information associated with the device;

sending an acknowledgment to the server after receiving the device identifier from the server, wherein the device identifier is accompanied by the correlation data associated with the device; and

using the device identifier after receiving a confirmation from the server, wherein the confirmation is accompanied by the correlation data associated with the device.

11. (previously presented) The method of claim 10, wherein a timestamp is also received from the server, and wherein the acknowledgment comprises the device identifier and the timestamp.

12. (canceled)

13. (previously presented) The method of claim 10, wherein the correlation data comprises:

device data to particularly identify the device; and

user data to identify a particular user of the device.

14. (original) The method of claim 10, further comprising sending a second acknowledgment to the server if the confirmation has not been received after a time out period.

15. (previously presented) A system for assigning a device identifier to a device, the system comprising:

an assignment system for managing an assignment of the device identifier at a server, wherein at least a portion of the assignment system is implemented by instructions stored on a data storage device, wherein the assignment system is configured to:

obtain the device identifier in response to a request, the device identifier being unique from device identifiers of other devices identified by the server and distinct from a network address of the device,

mark a status of the device identifier as pending, and

mark the status of the device identifier as in use in response to an acknowledgment of the device identifier from the device; and
a server communication system configured to:

receive the request from the device, wherein the request is accompanied by correlation data with unique identification information associated with the device,

send the device identifier to the device, wherein the device identifier is accompanied by the correlation data associated with the device,

send a confirmation to the device after the acknowledgment is received, wherein the acknowledgment is accompanied by the correlation data associated with the device, and

receive the acknowledgment from the device, wherein the confirmation is accompanied by the correlation data associated with the device.

16. (original) The system of claim 15, further comprising:

a request system for obtaining the device identifier from the server, wherein the request system generates the request and the acknowledgment;

a device communication system for sending the request and the acknowledgment to the server, and for receiving the device identifier and the confirmation from the server; and

an identifier system that uses the device identifier after the confirmation is received.

17. (previously presented) The system of claim 15, further comprising:

a management system for managing a set of device entries, wherein each of the device entries comprises a unique device identifier, a status indicator to indicate a status

of the corresponding device identifier, and correlation data associated with the corresponding device identifier; and

a comparison system for obtaining one of the device entries based on correlation data for the device.

18. (previously presented) A program product stored on a recordable data storage medium for assigning device identifiers, which when executed comprises:

program code for receiving a request for the device identifier at a server, wherein the request is accompanied by correlation data with unique identification information associated with a device;

program code for obtaining the device identifier, the device identifier being unique from device identifiers of other devices identified by the server and distinct from a network address of the device;

program code for marking a status of the device identifier as pending;

program code for sending the device identifier to the device, wherein the device identifier is accompanied by the correlation data associated with the device;

program code for marking the status of the device identifier as in use after receiving an acknowledgment from the device, wherein the acknowledgment is accompanied by the correlation data associated with the device; and

program code for sending a confirmation to the device after the acknowledgment is received, wherein the confirmation is accompanied by the correlation data associated with the device.

19. (original) The program product of claim 18, further comprising:

program code for sending the request to the server;

program code for sending the acknowledgment to the server after receiving the device identifier from the server; and

program code for using the device identifier after receiving the confirmation from the server.

20. (original) The program product of claim 18, further comprising:

program code for reusing the device identifier for another request received from another device after a time out period has elapsed; and

program code for sending a rejection to the device if the acknowledgment is received after the time out period has elapsed.

21. (previously presented) The method of claim 1, wherein a value of the device identifier prior to the request is indicative of an unused status of the device identifier.

X. EVIDENCE APPENDIX

There is no evidence submitted with this Appeal Brief.

XI. RELATED PROCEEDINGS APPENDIX

To the best of Appellants' knowledge, there are no appeals or interferences related to the present appeal that will directly affect, be directly affected by, or have a bearing on the Board's decision in the instant appeal.